

A SHORT HISTORY

OF THE
Life and Death
OF

The ACT made

The 35th of Elizabeth, Cap. 1.

INTITULED,

An Act to retain the Queen's Majesties Subjects in their due Obedience.

AS ALSO,

The ACT commonly called

The Conventicle Act,

Made the 16th of His present Majesty, K. Cha. 2d.

INTITULED,

An Act to Prevent and Suppress Seditious Conventicles.

WHEREIN

It plainly appears by the several Records,
That both the said ACTS are Expired,
And have no FORCE

IN

LAW.

*Published for Satisfaction of His Majesties Protestant Subjects;
By E. W.*

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A Short HISTORY

*Of the Life and Death of the Statutes of the 35th. Q. Eliz.
And 16. K. C. 2d. against Conventicles, &c.*

The INTRODUCTION.

I Make no doubt, but this Paper will meet with much opposition, especially from such as are willing, these Laws should be put in execution, against Dissenting Protestants; but the Author considering the miseries such an Act (if it were in force) might bring, upon His Majesties good and peaceable Subjects, and being fully and clearly convinced in his Conscience, that the Act of the 35th. of *Q. Eliz.* is not in force, thought it his duty to the publick, to state the Case as in Truth it lies, without partiality, and there leave it to all Reasonable Men, to Consider and Determine the Matter, as they shall find just Cause and Reason: And hopes that upon a just Enquiry if they shall find him Mistake the Case, some abler Person will better inform him and the VVorld; in the mean time he hopes the Integrity and Honesty of the Cause, will receive no prejudice from the plainness and illaw-like Terms, made use of by him in the following Lines.

Therefore

T Herefore to come to the Matter without further delay, the Reader must take notice the Act made the 35 of *Eliz. cap. 1.* which is Intituled an Act to retain the Queens Majesties Subjects in their due Obedience, was only a Temporary Act, as appears plainly by the last clause of the Chapter, *Viz.*

See 35 E-
liz. cap. 1.
Sect. 13.

Provided also that every Person that shall abjure by force of this Act, or refuse to abjure, being thereunto required as aforesaid, shall forfeit and loose to Her Majesty all his Goods and Chattels for ever; and shall further loose all his Lands, Tenements, and Hereditaments, for, and during the Life onely of such Offender and no longer: And that the Wife of any Offender by force of this Act shall not loose her Dowry, nor that any Corruption of Blood shall grow by reason of any Offence mentioned in this Act. But that the Heir of such Offender by force of this Act shall and may after the Death of every Offender, have and enjoy the Lands, Tenements, and Hereditaments of such Offender, as if this Act had not been made, and this Act to continue no longer then to the end of the next Sessions of Parliament.

Rot. 35
Eliz.

This Parliament began the 19th. Day of *February*, in the 35 of the *Queen*, and was Dissolved the 10th of *April* following.

Rot. 39. E-
liz.

The next Parliament that followed, (which ended the Sessions mentioned in that Act of the 35,) began the 24th of *Octob.* in the 39th Year of the *Queen*, and there continued until the Dissolution thereof, which was the 9th of *February* next following the Year 1597, as by the Roll appears.

See 39 E-
liz. cap. 18.
Sect. 26.

In this Sessions this Act was Revived with divers others, by an Act Intituled, *An Act for the Reviving, continuance, perfecting and repealing divers Statutes*; which Enacts that the 35 of *Eliz.* shall continue and endure in form and Effect until the end of the next Parliament, next ensuing.

Sect. 41.

The

The next Parliament began the 27th of October in the 43 of *Elizabeth*, and continued until the dissolution thereof, being the 19th of December then next following, 1601. as appears by the Roll. H. 8. 43. 200
43. 17
Vide Rot.
43. Eliz.

In this Session the 35 of *Eliz.* is again revived, with others, by the Statute Entituled, *An Act for continuing divers Statutes, and Repeal of some others;* which enacts, That the same be continued and remain in force, until the end of the first Session of the next Parliament. Cap. 9. Sect.
18.
Sect. 27.

The next Session of Parliament, began the 10th day of March in the first year of King *James*, and ended that Session the 7th of July 1604. as appears by the Roll. Vide Rot.
1 Jac. 1. 200
1 Jac. 1. 251

The 35 of *Eliz.* again continued in this Session, among divers others, by the Act intituled *An Act for continuing and reviving of divers Statutes, and for repealing divers others.* Sect. 13.

Which Statute enacts, the same shall be continued, and remain in force until the end of the first Session of the next Parliament. S. 24.
Sect. 13.

The second and next Session of Parliament, began and holden by Prorogation the 5th day of November, in the Third of King *James*, and ended the 27th of May next, and was then prorogued to the 18th of Nov. 1606. Rot. 3 Jac.

Now observe, that in this Session there was no Reviver or Continuance of the 35th of *Eliz.* therefore it absolutely ceased, and was not in force, but as if the same had never been.

The next Parliament began from the last Prorogation of the 18th of November, in the Fourth of King *James*, and ended that Session the 10th day of July 1607. and then prorogued until the 6th day of November following. See the Roll
4 Jac.

See the Roll
7 Jac.

The next Parliament, being the Fourth Sessions, began and holden by Prorogation the 19th day of *February* in the Seventh year of King *James*, and continued until the 23d of *July*, and then prorogued until the 16th of *October* next following, 1610.

In all which several Sessions there was no manner of Continuance or Revivor of the 35th of *Elizabeth*. So it is most plain, the Act was expired, and wholly discontinued from the 27th of *May*, in the Third of King *James* to the 21th of King *James*.

See the Roll
21 Jac.

Now the next Parliament that makes any mention of the 35 of *Eliz*, was the Parliament which began the 19th day of *February* in the 21th of King *James*, and was continued to the 29th day of *May* following, and then prorogued till the second day of *November* 1624.

21 Jac. 2. 22.

In this Session it is Enacted by the Statute intituled, *An Act for continuing and reviving of divers Statutes, and repeal of divers others*; in which is included the 35th of *Eliz*. this Clause; viz. "shall, by Vertue of this Act, be adjudged ever since the Session of Parliament in the 7th year of his Majesties Reign of *England*, to have been of such Force and Effect, as the same were the last day of that Session, and from thenceforth until the end of the first Session of the next Parliament.

Which Clause in the Act at first seems as if the same 35th of *Eliz*. were again revived, but consider the words as they lye, and it cannot be so adjudged; which appears plainly thus :

You

You have observed, as above is hinted, the last Revivor of that Statute was by the 1 *Jac.* cap. 25. to continue to the end of the first Session of the next Parliament; which Session, meant and expressed, was the second Session in King *James* his Reign, and began the 5th of *November* in the Third of that King, and ended that Session the 20th of *May* next, and then the Statute of the 35th of *Elizabeth* ceased, as is most plain, because that in all that Session of 3 *Jacobi*, it was never revived; so that the Session which began and ended the 7th of King *James*, spoken of in this Statute of the 21st *Jacobi*, in the words before, viz. "To have been of such Force and Effect, as the same were the last day of that Session, did not retain or keep in force the said 35th of *Elizabeth*."

And how can it possibly be that the 25th of *Eliz.* was in force, either the beginning or end of that Session, of the 7th of King *James*, spoken of in this last-recited Statute, when it is plain, that it was expired long before? If so, then this Statute of 21 *Jacobi* can no way set it up again; for this of the 21 of King *James* only sets up such as was in force in that Session of the 7th of King *James*, and no otherwise.

But, to proceed. In the next Parliament, begun and holden at *Westminster*, the 18th day of *June* in the First of King *Charles*, divers Acts passed to make it a Session; but, by a special Bill passed in the same Parliament, it was Enacted, viz. "And all Statutes and Acts of Parliament which are to have continuance unto the end of this present Session, shall be of full force after the said Adjournment, until this present Session be fully ended and determined, &c."

So

1 Car. c. 17.
The Roll
1 Car. prim.

that it is clear, all continued now as it was left
the 35th of King James, but this of the 35th of Eliz.
was not then in being.

The next Parliament began the 27th of March
1627. in the Third of Car. primi, and continued
to the 26th of June following, in which Parliament
was made divers Statutes.

3 Car. c. 4.

Secl. 22.

And amongst the rest, an Act intituled, *An Act
for Repeal and continuance of divers Statutes*; among
which is mentioned, the 35th of Eliz. which En-
acts, *viz.* By Verue of this Act shall be and con-
tinue until the End of the first Session of the
next Parliament, in Force and Effect as the same
were the first day of the Session of Parliament
holden in the first year of the Reign of our Sove-
reign Lord the King that now is.

1 Car. c. 17.
The Roll
1 Car. c. 17.

All which cannot, in the least be construed to
revive and set up the 35th of Elizabeth, for this
inforces no more than what was in force the First
of Car. primi; and if the 35th of Elizabeth were
out the Third of King James, and not in force the
35th of King James, as is before made appear, then
sure no man will say the 35th of Elizabeth was
in force the First of K. Charles the First, so that
this of the Third of Car. i. can have no force
or be looked to revive what was so long before
dead.

From the Third of King Charles to the sixteenth,
there is no mention made of any thing relating to
the 35th of Elizabeth, but in the 16th Car. it is
enacted

viz.

VIZ. And be it Enacted by the Authority aforesaid, That the passing of this present Act, or any other Act or Acts, or His Majesties Royal assent to them or any of them in this present Session of Parliament, shall not be any Determination of the said Session: and that all Statutes and Acts of Parliament, which have their continuance, or were by an Act of Parliament made in the Third Year of the Reign of His Majesty that now is, Intituled, An Act for the Continuance and Repeal of divers Statutes continued until the end of the first Session of the next Parliament, &c. Shall be of the same force as they were the last Day of that Session, and from thenceforth, until some other Act of Parliament be made, touching the continuance of the same, &c.

16 Car. C. 2d.

Still this Act pretends to continue no more then such as was continued to the Third of Car. Primi, which is just nothing to the purpose, and therefore it was no Wonder that a Doubt was pretended to be made by the over-long Parliament, commonly called, *The Penny-tionary Parliament*; Whether this Act of the 35 of Eliz. was in force or not; I must confess it is a very great Wonder to me, that they should in the least Question any thing relating to it, for by the same Rule that once the Commons at a Committee Judged Fourteen more then Twenty-One about an Election, they might as well make a Doubt, aye, and Judge and Declare it too, That the Session ending the 3 of Jacobi, might reach three Sessions after to the 7 of Jacobi, without much Difficulty in their Judgement, especially at that time a day.

However, there comes no Question about the 35 of Eliz. until the 16 Car. 2d. and then the House of Commons haveing a mind to prosecute the Conventicklers, made an Act to prevent and suppress Seditious Conventickles, and begins thus, VIZ.

Whereas by an Act made in the 35th Year of the Reign of our late Sovereign Lady Queen Elizabeth, Intituled, An Act to Retain the Queen's Majesties Subjects in their due Obedience, hath not been put in Execution, by reason of some Doubt of late made, Whether the said Act be still in force, altho' it be very clear and evident: And it is hereby Declared, That the said Act is still in force, and ought to be put in due Execution;

16 Car. 2d.
Cap. 4.

For providing therefore of further and more speedy Remedies against the growing and dangerous Practices of Seditious Sectaries and other Disloyal Persons, who under pretence of tender Consciences, do at their Meetings, contrive Insurrections, as late Experience hath shewed: Be it Enacted by the King's most Excellent Majesty, &c.

Self. 23. Idem.

And by the last Clause in this Statute, is as follows:

VIZ.

Provided also, and be it Enacted by the Authority aforesaid: That this Act shall continue in Force for Three Years after the End of this present Session of Parliament, and from thence forward to the end of the next Session of Parliament after the said three Years, and no longer.

This being the whole that concerned the Statute of the 35 of *Eliz.* it doth appear, That this last Statute is but one intire Statute, and that part which declares the Statute of the 35 of *Eliz.* to be in force, is joyned and annexed to the other part, and is but one Law, and hath its period at the time before prefixed; and that Declarative part dyes with the rest, which had its end the 22^d of this King, and that did continue the 35 of *Eliz.* but to the end of the time prefixed in the *Act*, and no longer: now that Session being ended, in which the Three Years (spoken of in the Statute) began the 16 and 17 of *Car. 2d.*

See the Role.

The next Session begun the 17 *Car. 2d.*

The next begun the 18th of September, 1666, in the 19 of *Car. 2d.* and ended the 8th of February following.

See the Role.

The next Sessions began, after the Three Years was expired, the 10th of October, 1667. and ended the 9th of May, 1668, and then continued by Adjournment to the 11th of April, 1670, and to the 24th of October following, when this Conventicle Act expired, being the 22^d of *Car. 2d.* as is before expressed.

Conventicle-Act
exp. the 22^d of
Car. 2d.

This being the Case, there is no longer any pretence for the 35 of *Eliz.* being yet in force, notwithstanding an Objection made, which is, that altho the Conventicle Act be expired, and with it the Branch of the declaring part; yet it being once declared, that Declaration stands good,

good, notwithstanding the *Act* it self dye : to which Objection, I answer, and first I would know if the Statute of 35 of *Eliz.* be expired, as undoubtredly it is, as is above shown before this Conventicle *Act* was made; if so, then I say the Declarative part in this Conventicle-Statute, cannot inforce or give Life to any thing longer then it lives it self.

And then again, I would ask if the Declaring part in this Conventicle *Act*, after it self is extinguished, can be Read as a Law to inforce another, which hath no being of a Law in it self, for then it necessarily follows, that an expired Law is as authentick as a Law in being.

But to finish this matter, as no Man of Judgement can imagine any such thing, so no Man of Honesty, (I dare say) can overmuch grieve at the loss of two such *Acts*, much less will he strain other Laws beyond their due bounds to inforce such a pernicious Law as the 35 of *Eliz.* was.

FINIS.
